



THE CORPORATION OF THE UNITED TOWNSHIPS OF
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Monday, Jan 16, 2012

To Whom it May Concern:

RE: Election questions to MMAH

Good morning

As many of you are aware, there have been a number of questions that relate to the upcoming municipal by-election that have been referred to the Ministry of Municipal Affairs and Housing for advice and interpretation. I promised to circulate this response once received.

This morning at 11:00 a.m. I received a phone call from Mr. Jon King our now representative at MMAH in Kingston.

Mr. King's response to the following questions, after consulting with the MMAH "elections team" was that the decisions were based on interpretation of the legislation and as such, we were to consult our municipal solicitor or the AMCTO Elections Team for advice. In the past, when consulting a municipal solicitor, we have found that they too are wary of giving any advice as there generally are no "court decisions" on which to base their advice.

I have already read the information provided by the AMCTO Elections Team in their training manual entitled "AMCTO Municipal Elections Manual 2010".

As per the Municipal Elections Act, (MEA) section 12 states ...

"12. (1) A clerk who is responsible for conducting an election may provide for any matter or procedure that, (a) is not otherwise provided for in an Act or regulation; and (b) in the clerk's opinion, is necessary or desirable for conducting the election. 1996, c. 32, Sched., s. 12 (1).

Forms(2) The power conferred by subsection (1) includes power to establish forms, including forms of oaths and statutory declarations, and power to require their use. 1996, c. 32, Sched., s. 12 (2).

Proof of identification, qualification, etc.

(3) The power conferred by subsection (1) includes power to require a person, as a condition of doing anything or having an election official do anything under this Act, to furnish proof that is satisfactory to the election official of the person's identity or qualifications, including citizenship or residency, or of any other matter. 1996, c. 32, Sched., s. 12 (3); 2002, c. 17, Sched. D, s. 4."

For this reason and for this election, the following are the answers to the questions that have been asked and circulated to MMAH who failed to respond. I have read through the MEA as well as the 2010AMCTO Municipal Elections Manual to come to the following decisions and conclusions. These answers will constitute the procedure for the 2012 by-election.

1. What if the "*person who is entitled to be an elector*" is not on the ple (preliminary list of electors) or voter's list and is not available to complete the "Application to Amend Voter's List" forms by the time the proxy form is presented to me? (Because they do not live in the area or they are away on holiday?)
 1. If the person's name is not on the voter's list, and they are not available to complete the form to amend the voter's list, the proxy is invalid and will not be certified by the Clerk and/or accepted by the Deputy Returning Officer.
2. In 44.7 - would the person not have to be on the voter's list for me to be satisfied that "*the person who appointed the voting proxy is entitled to do so*"?
 1. Because people need to show identification to the Deputy Returning Officer in order to obtain a ballot, if the person who has appointed a proxy is not on the voter's list, even though the Clerk or the DRO knows that they are entitled, their proxy is not valid. This is similar to the legislated requirement to show proper identification to the DRO even if you know the individual and/or are related to them, in order to obtain a ballot. It is the voter's responsibility to ensure that their name is on the voter's list.
3. What is required from an MNR leaseholder for me to add them to the list? Do I require additional evidence of their lease agreement or do I simply accept the completed "Application to Amend Voter's List" form? Is this my decision as Clerk?
 1. As any other individual, if they are willing to declare that the information on the "Application to Amend Voter's List" is accurate, they are entitled to have their application submitted to MPAC, have their name placed on the voter's list and be presented with a ballot. It must be made clear that only the person/people who has/have a lease agreement is entitled to be placed on the voter's list. They must be on the MNR's list of lessees.
4. Is it true that an individual may only act as a proxy for one non-relative OR any number of relatives? Or can a person act as proxy for one non-relative AND any number of relatives?
 1. An individual may only act as a proxy for one non-relative **OR** any number of relatives.
5. It is agreed that the term "relatives" as described in the MEA does not include "in-laws"?

1. The legislation describes the exempt status as "spouses or siblings of each other, parent and child, or grandparent and grandchild" of the person appointed a proxy.

6. As per section 14 of the MEA, **Original documents 14.A** *A document that is filed with an election official under this Act and that is required to be signed shall bear only original signatures. 1996, c. 32, Sched., s. 14* only original signatures are acceptable on any election forms?
 1. Only original signatures are acceptable on any and all election forms including proxy appointments and/or amendments to the voter's list forms.

7. I know that I am to keep the personal information within the voter's list confidential however; am I able to look up information for people to see if they are on the list? The situation once again includes proxies and whether or not the person is on the voter's list. As some of these property owners are nowhere near our municipal office, if they call, am I able to tell them whether or not they're on the list?
 1. The Clerk and/or designate may look up information on the voter's list for people who call in. They may only tell the person whether or not they are on the voter's list and will provide no further information concerning address etc.

8. And, can I tell someone whether or not someone else is on the list? Again without giving them any information other than that. I have a resident ratepayer who would like to know if her sister is on the list as they would like to appoint her as a proxy. Can I look up the information and advise whether or not the sister and her husband are on the list?
 1. Yes, without giving out or confirming any other information, the Clerk and/or designate may advise whether or not another individual is on the voter's list.

Please do not be surprised or disappointed when you arrive at the poll. Make sure you know the rules and regulations.

If you have any further questions or concerns, please do not hesitate to contact me.

Sincerely



Melinda Reith
Municipal Clerk