

BY-LAW NUMBER 4

OF

Wallaceburg Kinsmen Court Non Profit Housing

Conflict of Interest By-law

BE IT ENACTED as a by-law of Wallaceburg Kinsmen Court, By-law No. 4, Conflict of Interest, as follows:

1. BACKGROUND

- a) Wallaceburg Kinsmen Court recognizes it is good business practice to avoid conflicts of interest.
- b) The Government of Ontario, pursuant to the *Social Housing Reform Act 2000*, has issued Ontario Regulation 339/01 which includes the Government's rules relating to conflict of interest and other business practices. Schedule "A" contains a summary of these rules.
- c) This By-law sets out how Wallaceburg Kinsmen Court addresses conflicts of interest, including implementing the requirements of Ontario Regulation 339/01.

2. DEFINITIONS – In this By-law:

2.1 "Conflict of Interest" means a situation where:

- i. the personal or business interests of a director, officer, agent or employee of a housing provider are in conflict with the interests of the housing provider; or
- ii. a personal gain, benefit, advantage or privilege is directly or indirectly given to or received by a director, Officer, agent or employee or a person related to any one of them as a result of a decision by the housing provider;

and includes

- a. Wallaceburg Kinsmen Court giving a direct or indirect gain, benefit, advantage or privilege to a director, Officer, agent or employee or a person related to any one of them;
- b. a director, Officer, agent or employee or a person related to any one of them receiving a direct gain, benefit, advantage or privilege from the non-profit as a result of the person's position within Wallaceburg Kinsmen Court;
- c. Wallaceburg Kinsmen Court, in offering housing accommodation or in setting rents or other occupancy charges, giving any advantage or privilege to directors who are tenants that is not available to tenants who are not directors.

2.2 "Declaration" means a declaration in the form attached as SCHEDULE "B" to this By-law.

- 2.3 “**Director**” means a member of the Board of Directors of Wallaceburg Kinsmen Court.
- 2.4 “**Officer**” means the president, chair, vice-president, secretary, treasurer, manager and anyone else designated as an Officer in the by-laws of the Wallaceburg Kinsmen Court.
- 2.5 “**Person related to any one of them**” means a parent, spouse, same-sex partner, child, household member, sibling, uncle, aunt, nephew, niece, mother-in-law, father-in-law, sister-in-law, brother-in-law or grandparent of the director, Officer, agent or employee or a person with whom the director, Officer, agent or employee has a business relationship.
- 2.6 “**Service Manager**” means a Service Manager as defined in Section 2 of *The Social Housing Reform Act, 2000*, and includes any person exercising the powers of the Service Manager under Section 16 of *The Social Housing Reform Act, 2000*.
- 2.7 “**Threshold**” means more than an amount, accepted as such by the Service Manager, which is lesser of:
- a. \$3,000 and
 - b. \$14,999
- The appropriate monetary level is determined by the number of units under administration – as Kinsmen Court has 30 units the above numbers apply.

3. AVOIDING CONFLICT OF INTEREST

- 3.1 Exceptions – Wallaceburg Kinsmen Court shall not enter into a relationship, arrangement, contract or agreement with any person in a way that creates a Conflict of Interest, except that:
- a. provided that a notice of conflict or potential conflict of interest has been delivered to the Service Manager and the Service Manager agrees there is no reasonable alternative, Wallaceburg Kinsmen Court may enter into a relationship, arrangement, contract or agreement that normally would be the conflict of interest; given specific conditions to limit the Conflict of Interest as set out by Wallaceburg Kinsmen Court and approved by the Service Manager.
 - b. a Director who lives in the Non-Profit may be employed by Wallaceburg Kinsmen Court on a part-time basis to perform routine tasks such as administrative, maintenance or operational tasks with respect to the Wallaceburg Kinsmen Court’s project/portfolio
 - c. a Director may be employed by Wallaceburg Kinsmen Court in a non-managerial or non-supervisory position **provided that where the Board of Directors consists of not more than five Directors, there shall not be more than one Director so employed at any one time. If there are more than five Directors, the total number of Directors so employed may not exceed one-fifth of the Board.**

- d. some or all of the Directors may also sit as Directors of an organization that supplies essential support services for special-needs clients residing in Wallaceburg Kinsmen Court's project/portfolio, where the project/portfolio exists specifically so that residents can live in the community with the support services provided; and
 - e. the Directors may be paid a modest *per diem* or an honorarium if a provision allowing such remuneration is contained in the Letters Patent or Articles of Wallaceburg Kinsmen Court.
- 3.2 Duty to Monitor and Avoid Conflict of Interest – Wallaceburg Kinsmen Court shall closely monitor its relationships, arrangements, contracts and agreements, and not engage in any that may result in a Conflict of Interest. The Directors, individually and collectively, shall ensure compliance with this requirement.
- 3.3 Termination – Subject to employment law in force in Ontario and any collective-bargaining agreements to which Wallaceburg Kinsmen Court is party, all relationships, arrangements, contracts or agreements of the Non-Profit, which exceed the Threshold in any one fiscal year of Wallaceburg Kinsmen Court, shall include a clause permitting Wallaceburg Kinsmen Court to terminate the relationship, arrangement, contract or agreement if the Service Manager requires such termination in order to resolve a Conflict of Interest.
- 3.4 Directors Must Resign – Except as set out in subsection 3.1, a Director shall resign from her/his position before Wallaceburg Kinsmen Court's Board of Directors deliberates, issues a tender, or votes on a contract or employment position for which the Director intends to compete.
- 3.5 Former Directors and Officer – Except in the circumstances set out in subsection 3.1, no former Director or Officer may apply for employment with Wallaceburg Kinsmen Court or seek to enter into a contract to supply services to Wallaceburg Kinsmen Court directly or indirectly for a period of 1 year following the date she/he ceases to be a Director or Officer.
- 3.6 Purchase or Lease of Land – Where Wallaceburg Kinsmen Court purchases or leases land, it shall not purchase or lease such land from:
- a. an individual; or
 - b. a corporation which has a shareholder, director or Officer; who is a director, Officer, agent, employee, development consultant/resource group, architect or other technical consultant, real estate agent, or environmental consultant of Wallaceburg Kinsmen Court or any person related to one of them.

4. BOARD PROCEDURES

- 4.1 Conflict of Interest – The Board shall have Conflict of Interest as a regular agenda item at the beginning of each meeting of the Directors, general members meeting or annual general meeting. Any Director, Officer, agent or employee who has a Conflict of Interest must submit their Declaration at that time.

- 4.2 Declaration of Conflict of Interest – Directors, Officers, agents and employees of the housing provider must notify the chair of the Board of Directors of the housing provider of every potential or actual conflict of interest no later than the first meeting of the Board after the Director, Officer, agent or employee becomes aware that he or she has entered into a situation, arrangement or agreement that results in or may result in a conflict of interest. The form of such declaration is attached as Schedule “B”.
- 4.3 Potential Conflict of Interest – When a potential Conflict of Interest is raised before or during a board meeting, then:
- a. the party to the potential conflict must leave the meeting; and
 - b. the Board shall decide if there is a Conflict of Interest.
- 4.4 Consideration of Notice – The Board of Directors shall consider any declaration given under subsection 4.2 no later than the second meeting of the Board after the notice is given. The consideration of the notice must be reflected in the minutes of the meeting.
- 4.5 Resolution of a Conflict of Interest – The Board shall notify the Service Manager of any declaration received under subsection 4.2. The notification to the Service Manager shall include one of the following:
- a. If a person filed a declaration of a potential Conflict of Interest and the board decided there was in fact no such Conflict, a declaration to that effect and a request that the Service Manager ratify this decision; or
 - b. if a Conflict of Interest exists which may be resolved in accordance with this by-law and Ontario Regulation 339/01 notification of how Wallaceburg Kinsmen Court has resolved the Conflict of Interest and a request that the Service Manager ratify such resolution, or
 - c. if a Conflict of Interest exists which the Board is unable to resolve in accordance with this by-law and Ontario Regulation 339/01, or the Conflict of Interest is of an “ongoing” nature, a request will be made that the Service Manager issue instructions for resolving the Conflict of Interest.
- 4.6 Conflict to be Resolved to the Service Manager’s Satisfaction – If the Service Manager issues instructions regarding an alternative to a decision made by the board under subsection 4.5 a) or b) or a resolution under subsection 4.5 c) Wallaceburg Kinsmen Court Non-Profit will act in accordance with the Service Manager’s instructions.
- 4.7 On-Going Conflict of Interest – Where the Conflict of Interest is on-going or is not easily resolved, the Non-Profit is required to have clear, concise and written procedures detailing how an on-going Conflict of Interest is declared, isolated and resolved which is approved by the Board and the Service Manager.
- 4.8 Record-keeping – Wallaceburg Kinsmen Court shall maintain a Conflict of Interest file containing all declarations, reports and minutes pertaining to Conflict of Interest and Perceived Conflict situations.

- 4.9 Requirement to confirm Receipt and Knowledge of Conflict of Interest Bylaw – Wallaceburg Kinsmen Court is required to have all directors, officers, agent and employees sign a form acknowledging that the individual has been provided with a copy of the conflict of Interest By-Law, has read it and fully understand their responsibility to declare a potential or actual Conflict of Interest in accordance with the approved By-Law. The declaration should be signed when a director, officer, agent or employee first takes a position with Wallaceburg Kinsmen Court or begins their employment with them or when the revised Conflict of Interest By-Law comes into force. A copy of the declaration must be retained in the Conflict of Interest file for the full period of the director, officer, agent or employee’s involvement or employment with the Non Profit. A copy of the declaration is attached as Schedule “C”.

5. PROMOTING FAIR AND OBJECTIVE BUSINESS PRACTICES

- 5.1 Tenders – Wallaceburg Kinsmen Court shall invite at least three qualification tenders, or publicly tender all contracts costing over \$14,999.99
- 5.2 Considering Tenders – In considering tenders, Wallaceburg Kinsmen Court shall:
- a. consider the quality of goods and services to be provided; and
 - b. base its decision on written specifications outlining resources, timing, cost and fees.
- 5.3 Not Choosing Low Bid – Where the lowest bid is not chosen by the Board of Directors (or the person ordinarily responsible for making this decision), Wallaceburg Kinsmen Court shall ensure that the reasons are documented and approved by the Board in the form of a Board resolution.
- 5.4 Contracts Under \$15,000 – Wallaceburg Kinsmen Court shall obtain a minimum of three written quotes for any contract costing between \$3,000.00 and \$14,999.99 in any fiscal year, and adopt clear, fair and written procedures for the awarding of contracts under \$3,000.00.
- 5.5 Participation in Cooperative Purchasing Programs – Where Wallaceburg Kinsmen Court participates in cooperative purchasing programs, the procedures of the cooperative purchasing program shall replace the Non-Profit’s internal procedures for competitive acquisition of goods and services for the duration of Wallaceburg Kinsmen Court’s participation in the cooperative purchasing program. Wallaceburg Kinsmen Court shall report its participation in such programs to the Service Manager on an annual basis.
- 5.6 Recommended Purchasing/Tendering Processes – Wallaceburg Kinsmen Court will follow the recommended Purchasing and Tendering processes as outlined in the By-law, including:
- a) For contracts with an estimated value of between \$3,000 and \$14,999 related to a specific project with a limited time-frame and which can be clearly defined, the Non-Profit shall seek an appropriate supplier by:

- i) preparing terms of reference for the work,
 - ii) seeking three competitive bids with associated fixed-price quotations and
 - iii) awarding the contracts based on an assessment of the qualifications of the supplier, the information provided in the proposal, and the price.
 - b) For contracts with an estimated value exceeding \$15,000.00 which require ongoing provision of professional advice or specified goods and services to the Non-Profit requiring knowledge of matters specific to Kinsmen Court requiring knowledge of matters specific to Kinsmen Court (such as legal advice, audit services or specialized technical advice), Wallaceburg Kinsmen Court shall seek an appropriate supplier by:
 - i) preparing terms of reference for the work
 - ii) inviting offers of service by:
 - (1) giving notice by public advertisement of the requirement to engage the services (Public Tender)
 - (2) inviting submissions from those individuals or firms who appear best qualified to meet the requirement of the engagement or to pre-qualified firms (Invitation Tender)
 - iv) rate the offers of service against the terms of reference to identify the offer of the offer of service which represents the best value for money based on the qualifications of the supplier, the information provided in the proposal, and the price; and
 - v) select the firm offering the best value for money.
 - c) Wallaceburg Kinsmen Court shall keep records of all contracts and tenders, the list of bidders, their submission and fees, the decisions of Kinsmen Court and any other related materials in a Purchasing/Tender file.
- 5.7 Purchase of Professional Services – Where the Corporation is purchasing professional or consulting services the same monetary limitations identified under Section 5.1, 5.4 and 5.7 will apply to all professional fees for service contracts or consulting contracts.
- 5.7 Emergencies – Where an emergency prevents Wallaceburg Kinsmen Court from following other provisions of this By-law, Wallaceburg Kinsmen Court shall:
 - a) employ without a call for proposals the individual or firm in whom Wallaceburg Kinsmen Court has the greatest confidence in regard to a particular requirement of the Non-Profit in dealing with this emergency;
 - b) ensure the employment of the individual or firm lasts no longer than necessary to deal with the emergency; and
 - c) keep records of the appointment of the employment and remuneration of the individual or firm.
- 5.9 Employment Contracts – Wallaceburg Kinsmen Court shall implement documented, open and competitive practices for employment opportunities which are not inconsistent with:
 - a) any collective bargaining agreement of Wallaceburg Kinsmen Court; and
 - b) other fair labour practices as set out in the Personnel Policy of Wallaceburg Kinsmen Court.

6. Management Contracts – Wallaceburg Kinsmen Court shall implement documented, open and competitive practices for employment opportunities which are not inconsistent with:
- a) any collective bargaining agreement of Wallaceburg Kinsmen Court; and
 - b) other fair labour practices as set out in the Personnel Policy for Wallaceburg Kinsmen Court.

PASSED by the Board of Directors and sealed with the corporate seal of the Corporation on the 4th day of February, 2010.



PRESIDENT



SECRETARY

c/s

CONFIRMED at a general meeting of the Members on the _____ day of _____, 2010

PRESIDENT

SECRETARY

c/s

SCHEDULE "A"
To
By-Law No. 4

Summary of Obligations

This is a summary of the conflict-of-interest rules set out in Ontario Regulation 339/01, for all non-profit housing providers subject to the *Social Housing Reform Act 2000*.

1. A conflict of interest is defined as a situation where:
 - the personal or business interests of a Director, officer, agent or employee of a housing provider are in conflict with the interests of the housing provider; or
 - a personal gain, benefit, advantage or privilege is directly or indirectly given to or received by a director, Officer, agent or employee or a person related to them as a result of a decision by the Housing Provider.
2. "A person related to a Director, Officer, agent or employee" includes a parent, spouse, same-sex partner, child household member, sibling, uncle, aunt, nephew, niece, mother-in-law, father-in-law, sister-in-law, brother-in-law or grandparent, or a person with whom the director, Officer, agent or employees has a business relationship.
3. A Director, Officer, agent or employee of the housing provider shall not enter into any situation, arrangement or agreement that results in a conflict of interest.
4. Directors, Officers, agents and employees of the housing provider must notify the chair of the Board of Directors of the housing provider of every potential or actual conflict of interest no later than the first meeting of the Board after the Director, Officer, agent or employee becomes aware that he or she has entered into a situation, arrangement or agreement that results in or may result in a Conflict of Interest.
5. The Board of Directors shall consider any notice given under paragraph 4 no later than the second meeting of the Board after the notice is given. The consideration of the notice must be reflected in the minutes of the meeting.
6. The Chair of the Board of Directors shall notify the Service Manager in writing of the receipt of every notice under paragraph 4, and the Board of Directors shall resolve every conflict of interest or potential conflict of interest to the satisfaction of the Service Manager.
7. Despite paragraph 3, a director, officer, agent or employee or a person related to one of them may directly or indirectly receive a gain, benefit, advantage, privilege or remuneration from the housing provider if both the following conditions are satisfied:
 - a. a notice of the conflict of interest or potential conflict of interest is given in accordance with paragraph 4; and
 - b. the Service Manager agrees that there is no reasonable alternative for the housing provider other than entering into the situation, arrangement or agreement that results in or may result in the conflict of interest.
8. The Conflict of Interest provisions set out above may be replaced by rules agreed to by the housing provider and the Service Managers for all areas in which its housing projects that are subject to the *Social Housing Reform Act 2000* are located.

SCHEDULE "B"

To

Notification of Conflict of Interest or Potential Conflict of Interest and Record of Resolution of Conflict of Interest

Part 1

Name of Non-Profit: **Wallaceburg Kinsmen Court**

Contact Person:

Address:

Part 2 (to be completed by the director, Officer, agent, or employee with the conflict)

Name:

Address:

Briefly describe the conflict or potential conflict (add any relevant supporting documentation)

Signature

Date

Part 3 (to be completed by the Chair of the Board or designate)

Date of Receipt of Notice

Date of Meeting at which the conflict was considered.

Did the Board decide a Conflict of Interest existed as set out in Part 2 above?

No (go to part a)

Yes (go to part b)

a) If no, complete the following declaration:

"I certify that the Board of Directors of Wallaceburg Kinsmen Court Non Profit Housing, after considering the potential conflict of interest described above, decided that in fact no Conflict of Interest exists. I request ratification by the Municipality of Chatham-Kent of this decision of Wallaceburg Kinsmen Court."

Signature

Date

b) Was the conflict resolved in accordance with Wallaceburg Kinsmen Court's by-laws and O. Reg. 339/01. Complete only one of the two boxes below.

Yes (briefly describe the resolution of the conflict (add any relevant supporting documentation))