

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Jennifer A. Pfuetzner
Mr. Justice David J. Kroft
Madam Justice Anne M. E. Turner

BETWEEN:

<i>THE RURAL MUNICIPALITY OF</i>	)	<i>M. L. Grande and</i>
<i>THOMPSON and THE LOCAL URBAN</i>	)	<i>J. S. Hanson</i>
<i>DISTRICT OF MIAMI COMMITTEE</i>	)	<i>for the Appellants</i>
)	
<i>(Applicants) Appellants</i>	)	<i>J. G. Aiello and</i>
	)	<i>F. Aiello</i>
<i>- and -</i>	)	<i>for the Respondent</i>
)	
<i>DONNA COX</i>	)	<i>Appeal heard:</i>
	)	<i>September 5, 2025</i>
)	
<i>(Respondent) Respondent</i>	)	<i>Judgment delivered:</i>
	)	<i>January 6, 2026</i>

On appeal from: *The Rural Municipality of Thompson et al v Cox*, 2024 MBKB
30 [KB Reasons]
The Rural Municipality of Thompson et al v Cox, 2024 MBKB
152 [Costs Reasons]

PFUETZNER JA

[1] This appeal raises a question of statutory interpretation of *The Municipal Act*, CCSM c M225 [the *Act*], regarding the scope of a judge's decision-making power in an application to court under section 95(6) to declare a council member disqualified. Is this a discretionary decision and, if so, is the discretion limited to determining that the facts satisfy the strict requirements of the *Act* or are other considerations at play?

[2] As will be seen, a judge does have discretion in deciding such an application; however, that discretion is informed by the aims and purposes of sections 94 and 95 and their roles within the *Act*.

[3] A judge must first ensure that the evidence meets the requirements of the *Act* for the councillor's disqualification. Next, a judge can consider the circumstances that prima facie led to the council member's disqualification. In doing so, procedural rules may be strictly construed and a failure on the part of council to closely observe them or to provide a basic level of procedural fairness to the councillor are factors that can be properly considered by a judge in exercising their discretion. A judge can also take into account the actions and diligence (or lack thereof) of the council member.

[4] Once it has been established that the councillor is in breach of the relevant provision of the *Act* and that council has acted fairly and has complied with its duties under the *Act*, a declaration of disqualification should follow.

[5] Turning to the present case, in my view, the application judge properly exercised his discretion not to grant the application despite the respondent (Cox) having missed three consecutive meetings of the local urban district (the LUD) committee for her ward.

[6] For the reasons that follow, I would dismiss the appeal.

Statutory Provisions

[7] Before reviewing the background and the reasons of the application judge, I will set out the key provisions of the *Act* relevant to this appeal. These

and other important statutory provisions are included in an appendix to these reasons.

[8] Section 94(1)(b) of the *Act* provides:

When member becomes disqualified

94(1) A member of a council is disqualified from council if he or she

- (b) is the councillor appointed to the committee of a local urban district under clause 112(1)(a) and is absent for the full duration of three consecutive regular committee meetings unless the absences are with the leave of the committee granted by a resolution of the committee passed at any one of the three meetings, a prior meeting or the next meeting following the third absence[.]

Inhabilité des conseillers

94(1) Ne peut plus faire partie du conseil le conseiller :

- b) qui est nommé au comité d'un district urbain local en application de l'alinéa 112(1)a) et qui est absent pendant la durée complète de trois réunions ordinaires consécutives du comité, à moins que son absence ne soit autorisée par le comité au moyen d'une résolution adoptée à l'une des trois réunions, à une réunion antérieure ou à la réunion qui suit la troisième absence[.]

[9] Sections 95(1)-(2) and (6) of the *Act* provide:

Disqualified person must resign

95(1) A member of a council who is disqualified under this Act must resign immediately.

Démission de la personne inhabile

95(1) Le conseiller qui est inhabile sous le régime de la présente loi doit démissionner immédiatement.

Application to court

95(2) If the member of a council does not resign immediately upon disqualification, the court *may*, on application, declare the member to be disqualified and his or her position on the council to be vacant.

Requête adressée au tribunal

95(2) Si le conseiller ne démissionne pas dès qu'il devient inhabile, le tribunal *peut*, sur requête, déclarer le conseiller inhabile et son poste vacant.

Powers of court on application

95(6) After hearing an application under this section, the court *may*

- (a) declare the member to be disqualified and the member's position on the council to be vacant; or

- (b) dismiss the application.

Pouvoirs du tribunal

95(6) Après avoir entendu la requête, le tribunal *peut* :

- a) déclarer que le conseiller est inhabile et que son poste est vacant;
- b) rejeter la requête.

[emphasis added]

Background

[10] On October 26, 2022, Cox was elected to council of the applicant, the Rural Municipality of Thompson (the RM). By operation of section 112 of the *Act*, Cox was automatically appointed as a member of the LUD committee. Shortly after Cox's election, the council of the RM (the council), through a procedural bylaw (see Rural Municipality of Thompson, by-law No 14-18, *Procedures By-Law* (22 November 2018)), changed the time of its regular meetings so that they commenced at 9:30 a.m. only. The start time had previously alternated between 9:30 a.m. and 5:00 p.m. Subsequently, the LUD committee also changed the start time of its meetings to 9:30 a.m. The meetings previously occurred over the noon hour or from about 1:00 p.m. to

2:00 p.m. The Reeve of the RM deposed that these changes were based on what worked best for the majority of the members of the council and the LUD committee.

[11] Cox was absent from three consecutive regular meetings of the LUD committee on January 18, February 15 and March 15, 2023, as she was unable to take time off from her employment to attend.

[12] At the subsequent LUD committee meeting held on April 19, 2023, the LUD committee passed a resolution referring to section 94(1)(b) of the *Act*, noting Cox's absences from the three meetings and stating that it did not approve her absences from the meetings.

[13] On May 11, 2023, the council passed a resolution adopting the LUD committee's April 19, 2023 resolution and resolving that the council "deem[ed] [Cox] disqualified from Council pursuant to Section 94(1)(b) of the [Act]." On the same date, the council passed another resolution, noting that Cox indicated that she would not resign her position and authorizing the commencement of an application under section 95 of the *Act* for a declaration that Cox was disqualified and that her position on the council was vacant.

Proceedings in the Court of King's Bench

[14] On May 16, 2023, the applicants brought an application under section 95(2) of the *Act* seeking an order declaring that Cox was disqualified from serving on council under section 94(1)(b) and that her position was vacant.

[15] In reviewing the applicable law, the application judge noted that sections 94 and 95 of the *Act* had not previously been judicially considered and that there was no “on point” precedent (*KB Reasons* at para 31).

[16] Importantly, the application judge concluded that an application under section 95 of the *Act* is a fresh hearing and that the use of the word “may” (*KB Reasons* at para 36) in sections 95(2) and 95(6) of the *Act* indicates that the Court is “to exercise judicial discretion to allow or dismiss” the application for the declaration sought (*KB Reasons* at para 32).

[17] He further found that, if the Legislature had intended for an application under section 95 of the *Act* to be framed “as an appeal based on a correctness standard, or a review based on a reasonableness standard” (*KB Reasons* at para 35), the Legislature could have clearly articulated this intention in the *Act*.

[18] Although there was no question that Cox had missed three consecutive meetings of the LUD committee, the application judge concluded that the requirements of the *Act* for a declaration of her disqualification were nonetheless not met. In particular, he considered the events that occurred prior to Cox missing the LUD committee meetings, including the actions of the applicants and Cox.

[19] The application judge stated that the changes to the meeting times of the council and of the LUD committee had been made “for personal convenience reasons” (*KB Reasons* at para 12) of some of the members. He also found that the council and the LUD committee knew that the changes would adversely affect Cox and could preclude her from fully participating and that no efforts were made to accommodate her schedule.

[20] He had a dim view of the LUD committee's and the council's actions, referring to the councillors and others as "disingenuous" (*ibid* at para 50) and "obstinate" (*ibid* at para 53). He found that they knew or reasonably should have known that they were obstructing Cox from performing her duties and that they were disenfranchising voters by setting meeting times that conflicted with Cox's work obligations. The application judge observed that the applicants provided no satisfactory reason as to why the scheduling of meetings could not have been done in a manner that accommodated Cox's availability.

[21] He also found that Cox was not expressly provided with prior notice that the LUD committee was considering a resolution not to approve her absences and that the LUD committee did not properly consider the possibility of excusing Cox from the meetings. He wrote that, "[c]uriously, [the applicants] did not even entertain the possibility of excusing her from one or more [LUD] Committee meetings" (*ibid* at para 54).

[22] Turning to Cox's actions, the application judge found that her absences from the three LUD committee meetings were "not a matter of neglect, irresponsibility, or intention to flout her obligations to attend meetings" (*ibid* at para 48). Rather, he found that Cox "faced a real and honest dilemma that many citizens would similarly face with their employers; she was prepared to take unpaid time off work, but her employer was not able to grant that. She was stuck" (*ibid* at para 51).

[23] He also found that, at the time of seeking election to the council, Cox reasonably assumed that the scheduling of meetings would be done with flexibility to permit members to attend most meetings. In addition, he

accepted that Cox was not aware that she could be disqualified from her position on the council and the LUD committee if she was absent from three consecutive LUD committee meetings.

[24] In dismissing the application, the application judge stated that “[a] municipality cannot, in a situation such as this, in effect, obstruct a councillor and disenfranchise voters, by taking actions it knows, or should reasonably know, will preclude the elected representative from fulfilling their function” (*ibid* at para 56). He concluded that the applicants had “failed miserably” to foster “communication, collaboration and compromise” (*ibid* at para 57).

Positions of the Parties

[25] The applicants argue that the application judge erred in law by interpreting section 95(6) of the *Act* as conferring discretion on him and then exercising that discretion to dismiss the application. They submit that the use of the word “may” in sections 95(2) and 95(6) is to be read as empowering—in essence, the Court is required to grant the application once the statutory preconditions are met.

[26] Second, they assert that the application judge’s reasons “were imbalanced in the circumstances” by his failure to consider the respective duties and responsibilities of the applicants and Cox. The applicants object to the application judge’s finding that they were required to accommodate Cox’s schedule, arguing that no such duty existed in the *Act* or at common law and that it was Cox’s responsibility alone to ensure that she attended meetings.

[27] Cox argues that the language of sections 94(1)(b) and 95(6), properly construed, gives discretion to a judge hearing an application and that

the purpose of those sections of the *Act* is remedial and not punitive. She states that the application process allows council “to cure a situation where democracy is unable to function” because a councillor is failing to perform their duties and the situation has become “untenable”. As part of this process, she submits that a judge is entitled to consider the entire context, including whether the granting of leave to miss meetings was ever entertained by the applicants.

[28] Cox also submits that the application judge reasonably exercised his discretion to dismiss the application and that his reasons were not “imbalanced”.

Analysis

Standard of Review

[29] This is an appeal of a judgment of the Court of King’s Bench under section 96(1) of the *Act*, which provides that a decision of that Court under section 95 “may be appealed to The Court of Appeal.” Accordingly, the usual appellate standards of review apply.

[30] Statutory interpretation engages questions of law that are reviewed for correctness (see *Housen v Nikolaisen*, 2002 SCC 33 at para 8). A discretionary decision will only be interfered with on appeal if it is tainted by an error in principle or “is so clearly wrong as to amount to an injustice” (*Homestead Properties (Canada) Ltd v Sekhri et al*, 2007 MBCA 61 at para 13).

General Principles of Statutory Interpretation

[31] The modern approach to statutory interpretation requires that the relevant provisions of an act should “be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament” (*Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 at para 21 (SCC)).

[32] Section 6 of *The Interpretation Act*, CCSM c I80 sheds further light on the interpretive process. An act should be “interpreted as being remedial” and must be afforded “the fair, large and liberal interpretation that best ensures the attainment” of the Legislature’s objectives. This “broad and purposive approach” to the interpretation of legislation applies equally to municipal legislation (*United Taxi Drivers’ Fellowship of Southern Alberta v Calgary (City)*, 2004 SCC 19 at para 6).

[33] Consistent with the modern approach to statutory interpretation, an act must be read in a manner that does not “produce absurd consequences” (*Fouillard v Ellice (Rural Municipality)*, 2007 MBCA 108 at para 44 [*Fouillard*]). The various provisions of an act must be read “together harmoniously” with a “presumption of coherence” (*ibid*).

[34] Municipalities are creatures of statute (see *John Deere Financial Inc v Macdonald (Rural Municipality)*, 2020 MBCA 90 at para 18). The “clear and overriding purpose” of the *Act* is “to statutorily enable the modern municipal corporation to take an active and direct role ‘to provide good government’” (*Fouillard* at para 49).

[35] Notably, section 3 of the *Act* expresses that the purpose of a municipality includes providing “good government”, providing “services, facilities or other things . . . necessary or desirable” for the municipality, and developing and maintaining “safe and viable communities.” In a general sense, the council of a municipality is responsible “for developing and evaluating the policies and programs of the municipality” and “for ensuring that the powers, duties and functions of the municipality are appropriately carried out” (*ibid*, s 82). Individual councillors are required to contribute to these responsibilities, which include participation in meetings of the council and in meetings of local urban district committees (see *ibid*, s 83(1)).

[36] I agree with Cox that the purpose of sections 94(1)(b) and 95(2) of the *Act* is to ensure that a councillor who is unable, or has abdicated their duty, to participate in the operation of a local urban district committee can be removed and replaced so as to ensure the proper functioning of that committee and the municipality as a whole.

Is “May” Discretionary?

[37] Whether a statutory provision such as sections 95(2) or 95(6) of the *Act*—that uses the word “may” in granting a power to a judge—is discretionary or obligatory is a question that has frequently arisen in the case law.

[38] In general, when the word “may” is employed to confer a power on a judge to grant a remedy, it is presumed that it is in the discretion of the judge whether to exercise that power (see *The Interpretation Act*, s 15; *Lockport Taxi Ltd v The Rural Municipality of East St Paul et al*, 2020 MBQB 135 at paras 27-30 [*Lockport*], *aff’d* 2021 MBCA 40; *Heller v Registrar, Vancouver*

Land Registration District, 1963 CanLII 39 at 234 (SCC) [*Heller*]; *Smith & Rhuland Ltd v Nova Scotia*, 1953 CanLII 234 at 97 (SCC); *Julius v Oxford (Bishop of)* (1880), 5 AC 214 at 222-23, 241 (HL (Eng)) [*Julius*]).

[39] Interpreting the word “may” to “denote compulsion” should be done only “in the clearest of cases” (*Alberta (Minister of Justice and Attorney General) v Sykes*, 2011 ABCA 191 at para 31 [*Sykes*]).

[40] Ultimately, the provision must be interpreted by considering the broader context and objects of the particular statute. This was addressed in the leading decision of the House of Lords in *Julius*, where Selborne LJ observed that “[t]he question whether a Judge . . . to whom a power is given by such words, is bound to use it upon any particular occasion . . . is to be solved from the context, from the particular provisions, or from the general scope and objects, of the enactment conferring the power” (at 235).

[41] The use of permissive language to confer a power will not be construed as discretionary if doing so would frustrate the objects of the statute (see *Bates v Bates*, 2000 CanLII 14734 at para 24 (ONCA) [*Bates*]; *Brown v Metropolitan Authority*, 1996 CarswellNS 147 at para 44, 1996 NSCA 91 [*Brown*]). However, use of both imperative (e.g., “shall”) and permissive language to confer different powers in the same statute may indicate an intentional choice in using the word “may” (*Lockport* at paras 21, 39, 50; *Sykes* at para 29).

[42] When the provision in question confers a power upon a judge to give effect to the legal right of a private party, it is more likely that the provision will be interpreted as mandating the judge to exercise the power when the preconditions are met (see *Bates* at para 24; *Brown* at para 62; *Clarkson Co*

Ltd v White, 1979 CanLII 2616 at para 9 (NSSC (AD))). Conversely, where the power is not linked to the effectuation of a “private” right (as is the case with sections 94 and 95 of the *Act*), permissive words are less likely to be construed as imposing a duty upon the judge to exercise the power (*Maple Lodge Farms v Government of Canada*, 1982 CanLII 24 at 4-6 (SCC); *Heller* at 234; *Julius* at 244).

Jurisprudence on Removal of Municipal Councillors

[43] Prior to the procedure for removing a municipal councillor being codified in municipal statutes, disqualified councillors could be removed from office through a writ of *quo warranto* (see generally *Rex ex rel Matheson v Huber*, [1924] 2 WWR 596, 1924 CanLII 563 (MBKB)). As a prerogative writ, granting an order of *quo warranto* was “purely discretionary” by the Court “to be exercised upon sound consideration of the particular circumstances of each case” (*ibid* at 600).

[44] Historically, statutes dealing with the disqualification of municipal councillors have been construed strictly, particularly those respecting conflicts of interest, as “the strict adherence to the conditions of occupying [municipal] offices must be safeguarded” (*The Queen v Wheeler*, 1979 CanLII 228 at 666 (SCC) [*Wheeler*]). The criteria for disqualification were strictly enforced, even when conducive to harsh results or where a conflicted councillor clearly acted with bona fides (see *Callahan v St George’s (Municipality)*, 2012 NLTD(G) 82, 2012 CanLII 26753 at paras 33-35; *Arborg v Kindzierski*, [1980] 5 WWR 97 at 102, 1980 CanLII 4531 (MBQB); *Wheeler* at 666-67; *Reference re Municipal Government Act*, 1974

ALTASCAD 76 at para 11 [*Buzunis*]; *Barber v Calvert* (1971), 17 DLR (3d) 695 at 702-3, 1971 CanLII 1000 (MBCA)).

[45] However, it is also recognized that the right of a person to represent fellow citizens in a democratic government should only be removed when the statutory impetus for doing so is clear (see *Abbott v Musgrave Harbour (Town)*, 2023 NLSC 22 at para 50 [*Abbott*]).

[46] In the present case, the application judge expressly declined to adopt a strict application of the disqualification provisions illustrated by cases such as *Buzunis*. He noted that *Buzunis* involved disqualification for a pecuniary conflict of interest, which “was to be addressed without latitude” (*KB Reasons* at para 41), and found that “[m]issing meetings [was] not the same class of offence as conflict of interest” (*ibid* at para 43). I agree with this distinction.

[47] Even in the context of municipal conflicts of interest, the strict historical position has been ameliorated through legislation. Section 22 of *The Municipal Council Conflict of Interest Act*, CCSM c M255 provides that, “where a judge finds that a councillor violated a provision of this Act unknowingly or through inadvertence, the councillor is not disqualified from office, and the judge shall not declare the seat of the councillor vacant, in consequence of the violation.”

[48] There is jurisprudence from other provinces that has considered statutory provisions similar to sections 95(2) and 95(6) of the *Act* dealing with disqualification of a councillor for missing council meetings. Generally speaking, these disqualification provisions have not been strictly construed against a councillor in the same manner that conflict of interest legislation

traditionally has been. Courts show a willingness to consider “the contextual circumstances giving rise to the matter” (*Abbott* at para 50).

[49] For example, in *Corcoran v Trepassey (Town)*, 1992 CanLII 7274 (NFSC) [*Corcoran*], the Court found that a council member must be given adequate notice of a meeting in order to be considered absent from it. Otherwise, the meeting will not be “properly constituted” (*ibid* at para 10). In this regard, procedural rules will be applied strictly and a failure on the part of the council to closely observe them will negate the consequence of a councillor’s absences (see *Abbott* at para 58; *Corcoran* at para 16).

[50] Before council can successfully obtain a declaration of disqualification, there is an expectation that the council will afford a level of procedural fairness to the councillor (see *Abbott* at para 58; *Rocky View (County) v Wright*, 2021 ABQB 422 at paras 105-7). This may include making reasonable accommodation to a councillor in scheduling meetings (see *Bruno (Town) v Schmeiser*, 2004 SKQB 207 at paras 28-30).

[51] Where a council has improperly obstructed a member from attending meetings, the councillor will not be considered absent for the purpose of justifying the councillor’s disqualification (see *ibid* at paras 22-24).

[52] In addition, the Court, in *Abbott*, interpreted a statutory provision disqualifying a council member for being absent from three meetings without leave of the council as implicitly requiring the council to consider a prior request for leave as a precondition for disqualification. In hearing such a request, council is expected to comply with its own established practices (see *ibid* at para 58).

Application of Principles

[53] In my view, the proper interpretation of sections 95 and 96 of the *Act* is that a judge hearing an application does indeed have discretion whether to declare a council member disqualified once the requirements of the *Act* have prima facie been met. There is nothing in the wording of the *Act* or in its objects and purposes that would displace the natural meaning of “may” as endowing discretion on a judge hearing such an application. A strict construction of sections 95(2) and 95(6) of the *Act* is neither warranted nor in keeping with the language and objects of the *Act*.

[54] Assuming that the requirements for disqualification have otherwise been met, the judge hearing the application has discretion to make the requested order. In exercising this discretion, the overriding consideration for the judge is the facts and circumstances of how the council member came to run afoul of the requirements of the *Act*.

[55] In particular, the following factors drawn from the case law are a non-exhaustive list of things that, as relevant, should be considered in determining how to exercise that discretion: (1) How obvious or flagrant was the councillor’s impugned conduct? (2) Was the councillor subjectively aware (or wilfully blind) that the conduct was disqualifying? (3) Did the councillor act in good faith throughout? (4) Was the councillor previously warned of the consequences of the impugned conduct? (5) What are the council’s procedures to address the impugned conduct and were they strictly adhered to? (6) In responding to the impugned conduct or otherwise in dealing with the councillor, did the council afford them procedural fairness? (7) Did the council give meaningful consideration to the councillor’s reasons for the

impugned conduct or to a request for leave? (8) Is disqualification and removal from office a disproportionately harsh response to the impugned conduct?

[56] Turning to the present case, the application judge considered the following factors in exercising his discretion: the absence of any neglect or irresponsibility on Cox's part, the disingenuous excuse offered by the Reeve of the RM for changing meeting times, the legitimate employment reasons of Cox for missing the meetings, Cox's genuine unawareness that missing LUD committee meetings could result in her disqualification, the LUD committee's failure to entertain the possibility of excusing Cox from one or more meetings, and the failure of the applicants to consider that Cox was the voters' elected representative and that the actions of the applicants effectively obstructed Cox from acting as a councillor and disenfranchised voters. In my view these were all appropriate considerations and the application judge made no errors in principle in exercising his discretion.

[57] To summarize, in my view, the application judge correctly interpreted the *Act* and made no reversible error in exercising his discretion to dismiss the application.

Costs Award

[58] After dismissing the application, the application judge held a further hearing to allow the parties to speak to the matter of costs. He issued reasons (see *Costs Reasons*), awarding Cox ninety-five per cent of her actual legal fees and one hundred per cent of her disbursements and taxes. The application judge found nothing improper in the applicants' conduct of the litigation. However, he concluded that Cox's defence of the application was "a matter

of public interest to determine the proper construction or interpretation” (*ibid* at para 24) of section 95 of the *Act*, which should attract an award approximating solicitor and client costs. The application judge further noted that the applicants “funded this litigation by the public purse, while [Cox] could not do so as of right, thus facing a huge financial disincentive” (*Costs Reasons* at para 29).

[59] The applicants argue that the application judge erred in awarding enhanced costs to Cox in what was a straightforward application brought in good faith and within the applicants’ legislative jurisdiction.

[60] Cox submits that deference is owed to the application judge’s award of costs. She asks this Court to dismiss the appeal.

[61] In his detailed *Costs Reasons*, the application judge gave careful, principled reasons for his award of elevated costs to Cox. Taking into account the quintessentially discretionary nature of such awards, I am not persuaded that he erred in principle or that the award is plainly wrong (see *Re Parkinson Estate*, 2024 MBCA 52 at para 108). In my view, there is no basis to intervene.

Disposition

[62] In the result, I would dismiss the appeal with costs.

Pfuetzner JA

I agree: _____ Kroft JA

I agree: _____ Turner JA

APPENDIX

The Municipal Act, CCSM c M225:

Meaning of “must” and “shall”

1(2) Whenever this Act provides that a thing “shall” be done or “must” be done, the obligation is imperative.

Municipal purposes

3 The purposes of a municipality are

- (a) to provide good government;
- (b) to provide services, facilities or other things that, in the opinion of the council of the municipality, are necessary or desirable for all or a part of the municipality; and
- (c) to develop and maintain safe and viable communities.

Council’s role

82 A council is responsible

- (a) for developing and evaluating the policies and programs of the municipality;
- (b) for ensuring that the powers, duties and functions of the

Caractère obligatoire

1(2) Pour l'application de la présente loi, le présent de l'indicatif et l'auxiliaire devoir ont valeur d'obligation.

Fins municipales

3 Les municipalités ont pour fins :

- a) de gérer sainement leurs affaires;
- b) de fournir les services, les installations ou les autres choses qui, selon leur conseil, sont nécessaires ou utiles à l'ensemble ou à une partie de leur territoire;
- c) d'implanter et de maintenir des collectivités sûres et viables.

Rôle du conseil

82 Le conseil est chargé :

- a) d'élaborer et d'évaluer les politiques générales et les programmes de la municipalité;
- b) de faire en sorte que les attributions de la municipalité soient

municipality are
appropriately carried
out; and

exercées comme il se
doit;

- (c) for carrying out the powers, duties and functions expressly given to the council under this or any other Act.

- c) d'exercer les attributions qui lui sont expressément conférées en application de la présente loi ou de toute autre loi.

When member becomes disqualified

94(1) A member of a council is disqualified from council if he or she

- (a) is absent for the full duration of three consecutive regular council meetings unless the absences are with the leave of the council, granted by a resolution passed at any of the three meetings, a prior meeting or the next meeting following the third absence;
- (b) is the councillor appointed to the committee of a local urban district under clause 112(1)(a) and is absent for the full duration of three consecutive regular committee meetings unless the absences are with the leave of the committee granted by a resolution of the

Inhabilité des conseillers

94(1) Ne peut plus faire partie du conseil le conseiller :

- a) qui est absent pendant la durée complète de trois réunions ordinaires consécutives du conseil, à moins que son absence ne soit autorisée par le conseil au moyen d'une résolution adoptée à l'une des trois réunions, à une réunion antérieure ou à la réunion qui suit la troisième absence;
- b) qui est nommé au comité d'un district urbain local en application de l'alinéa 112(1)a) et qui est absent pendant la durée complète de trois réunions ordinaires consécutives du comité, à moins que son absence ne soit autorisée par le comité au moyen d'une résolution adoptée à

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| committee passed at any one of the three meetings, a prior meeting or the next meeting following the third absence; | l'une des trois réunions, à une réunion antérieure ou à la réunion qui suit la troisième absence; |
| (c) when nominated or elected, was not eligible as a candidate under this Act; | c) qui, au moment de sa mise en candidature ou de son élection, ne pouvait être candidat sous le régime de la présente loi; |
| (c.1) forfeits his or her seat under subsection 93.16(2); | c.1) qui est déchu de son siège en application du paragraphe 93.16(2); |
| (d) is liable to the municipality under a judgment in an action under section 171; | d) qui est responsable envers la municipalité en vertu d'un jugement rendu dans le cadre d'une poursuite visée à l'article 171; |
| (e) is convicted of an offence under this or any other Act and has not paid a fine imposed on conviction within 120 days after the fine was imposed or such time as the court has permitted for payment; | e) qui est déclaré coupable d'une infraction à la présente loi ou à toute autre loi et qui n'a pas payé l'amende qui lui a été imposée dans les 120 jours suivant la date où elle l'a été ou dans le délai que lui a accordé le tribunal; |
| (f) is convicted of | f) qui est déclaré coupable : |
| (i) an offence punishable by imprisonment for five or more years, or | (i) soit d'une infraction punissable d'une peine d'emprisonnement d'au moins cinq ans, |
| (ii) an offence under section 122 (breach of trust by public officer), 123 (municipal corruption), 124 | |

- | | |
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| <p>(selling or purchasing office) or 125 (influencing or negotiating appointments or dealings in office) of the <i>Criminal Code</i> (Canada);</p> <p>(g) ceases to be qualified as a voter; or</p> <p>(h) breaches the requirement of confidentiality under clause 83(1)(d).</p> | <p>(ii) soit d'une infraction prévue à l'article 122 (Abus de confiance par un fonctionnaire public), 123 (Actes de corruption dans les affaires municipales), 124 (Achat ou vente d'une charge) ou 125 (Influencer ou négocier une nomination ou en faire commerce) du <i>Code criminel</i> (Canada);</p> <p>g) qui cesse de remplir les conditions requises pour être électeur;</p> <p>h) qui viole l'obligation de secret prévue à l'alinéa 83(1)d).</p> |
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Disqualified person must resign

95(1) A member of a council who is disqualified under this Act must resign immediately.

Application to court

95(2) If the member of a council does not resign immediately upon disqualification, the court may, on application, declare the member to be disqualified and his or her position on the council to be vacant.

Démission de la personne inhabile

95(1) Le conseiller qui est inhabile sous le régime de la présente loi doit démissionner immédiatement.

Requête adressée au tribunal

95(2) Si le conseiller ne démissionne pas dès qu'il devient inhabile, le tribunal peut, sur requête, déclarer le conseiller inhabile et son poste vacant.

How application made

95(3) An application for a declaration that alleges that the member

- (a) is disqualified as of the day of the election must be made under Part 9 (Challenging Results of Election or Vote) of *The Municipal Councils and School Boards Elections Act*; and
- (b) is disqualified as of a date that is after the day of the election must be made in accordance with this section.

Who may apply

95(4) An application for a declaration under this section may be made by the council or by 10 or more voters.

When application may be made

95(5) An application under this section must be made during the member's term of office.

Powers of court on application

95(6) After hearing an application under this section, the court may

- (a) declare the member to be disqualified and the member's position on

Modalités de présentation de la requête

95(3) Toute requête en vue de l'obtention d'une déclaration portant que le conseiller :

- a) est inhabile à compter de la date de l'élection est présentée en conformité avec la partie 9 de la *Loi sur les élections municipales et scolaires*.
- b) est inhabile à compter d'une date postérieure à l'élection est présentée en conformité avec le présent article.

Auteur de la requête

95(4) La requête visée au présent article peut être présentée par le conseil ou par au moins dix électeurs.

Moment de la requête

95(5) La requête visée au présent article doit être présentée pendant le mandat du conseiller.

Pouvoirs du tribunal

95(6) Après avoir entendu la requête, le tribunal peut :

- a) déclarer que le conseiller est inhabile et que son poste est vacant;
- b) rejeter la requête.

the council to be vacant;
or

(b) dismiss the application.

Appeal

96(1) The decision of a court under section 95 may be appealed to The Court of Appeal.

Appel

96(1) Il peut être interjeté appel de la décision du tribunal devant la Cour d'appel en vertu de l'article 95.

Status and membership of committee

112(1) The committee of a local urban district is a committee of the council of the municipality in which the district is located and consists of

- (a) a councillor of the municipality appointed by the council; and
- (b) not more than three members elected by the voters of the local urban district.

Situation et membres du comité

112(1) Le comité d'un district urbain local est un comité du conseil de la municipalité dans laquelle se trouve le district et se compose :

- a) d'un conseiller de la municipalité nommé par le conseil;
- b) d'au plus trois membres qu'élisent les électeurs du district urbain local.

The Interpretation Act, CCSM c I80:

Rule of liberal interpretation

6 Every Act and regulation must be interpreted as being remedial and must be given the fair, large and liberal interpretation that best ensures the attainment of its objects.

Solution de droit

6 Les lois et les règlements sont censés apporter une solution de droit et s'interprètent de la manière la plus équitable et la plus large qui soit, compatible avec la réalisation de leur objet.

Imperative and permissive language

15 In the English version of an Act or regulation, “shall” and “must” are imperative and “may” is permissive and empowering. In the French version, obligation may be expressed by using the present indicative form of the relevant verb, or by other verbs or expressions that convey that meaning; the conferring of a power, right, authorization or permission may be expressed by using the verb “pouvoir”, or by other expressions that convey those meanings.

Obligations et pouvoirs

15 Dans la version française d'une loi ou d'un règlement, l'obligation s'exprime par l'indicatif présent du verbe porteur du sens principal ou par des verbes ou des expressions comportant cette notion; l'attribution de pouvoirs, de droits, d'autorisations ou de facultés s'exprime par le verbe « pouvoir » ou par des expressions comportant ces notions. Dans la version anglaise, l'obligation s'exprime par l'emploi des mots « shall » et « must » et l'attribution de pouvoirs, de droits, d'autorisations ou de facultés par l'emploi du mot « may ».