

## Publisher's Note

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<p><b>THE ANNOTATED MUNICIPAL ACT</b> <b>Second Edition</b> Auerback and Mascarin Release No. 4, April 2024</p>
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The Annotated Municipal Act, Second Edition, helps you navigate this complex piece of legislation and is your single most important resource in municipal law. This publication includes analysis of each section of the Ontario *Municipal Act, 2001* and includes a concordance to the former Act.

This release features updates to the case law and commentary on the *Municipal Act, 2001*, as well updates to Appendix C:2 — *City of Toronto Act, 2006*.

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## Highlights

**Municipal Act, 2001 — PART V.1 Accountability and Transparency — General** — The plaintiff sat on the management board for the local business improvement area. Community council voted unanimously to remove the plaintiff from the board. Almost four years later, the plaintiff attended the annual general meeting of the business improvement area. The defendant attended the meeting in her position as economic partnership advisor in the business improvement area office for the city. During the meeting, the plaintiff nominated himself for the board position, despite being ineligible at that time to serve on the board. At the meeting, the defendant raised the issue regarding the plaintiff's eligibility to serve on the board, and an exchange unfolded between the parties until the meeting adjourned. The plaintiff sued the defendant for defamation on the basis of what she had said during the meeting. The defendant brought a motion to dismiss the action. The motion was granted; the defamation action was dismissed. The plaintiff did not show, on the balance of probabilities, that he likely had suffered or would suffer harm, that such harm was the result of the defendant's expression, and that the corresponding public interest in allowing the underlying proceeding to continue outweighed the deleterious effects on expression and public participation. The defendant met the burden of demonstrating that her comments related to a matter of public interest. Her comments concerned the eligibility of a potential candidate to sit on a local board of a city. The discussion took place at a meeting that was required pursuant to a by-law to take place in public and on notice to its members. The plaintiff had not shown that the defences raised by the defendant had no real prospect of success: *Papatheodosiou v. Varone*, 2022 ONSC 4110, 2022 CarswellOnt 10058 (Ont. S.C.J.).

**Municipal Act, 2001 — PART XV Municipal Liability — Liability for Torts** — The appellant city councillor voted against a development and aided residents in the appeal of the development. Developers brought an action against two residents for negligence and unlawful interference with economic relations. The residents' appeal was dismissed. After a chance meeting with the developer, the councillor claimed that a threat was made, and made a report to police. The developer commenced an action against the councillor seeking damages for defamation and other torts for reporting the incident to police. The developer settled with the residents, and the developer made a statement of claim targeting the city councillor. The councillor's motion to dismiss action was dismissed. The councillor appealed. The appeal was allowed. The public interest test was misapplied by the trial judge. Members of the public must not feel that, in making a report to police, they may be exposed to litigation, especially litigation of the magnitude commenced by the developer. The fact that the police determined that the actions complained of did not rise to the level of criminal threatening did not change the public interest in ensuring that such concerns are reported to police and reviewed by them. The statement that "it is questionable who was harassing whom" had nothing to do with whether the report to police was an expression on a matter of public interest, as even if the councillor was the harassing party, it did not change the public interest in having the incidents reported to authorities. The expression at issue, properly considered, was expression on a matter of public interest. The matter was remitted to different a judge: *Zeppa v. Rea*, 2023 ONCA 668, 2023 CarswellOnt 15591 (Ont. C.A.).

## ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work.
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- The Table of Cases and Index are now in PDF with no searching and linking.
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