



Tips, Trips, and Traps in Municipal Law

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Basics of tendering

- Contract “A” and Contract “B”.
- Contract “A” only formed with compliant bidders.
- No duty to investigate representations on face of bid.

The former *Public Tender Act*



- Tender required for public work over \$20,000.
- “Lowest compliant bidder”.

New Public Procurement Act

- Concept of “best value”
- New threshold values:
 - Goods valued at >\$10,000 (no change).
 - Services valued at >\$50,000 (formerly \$10,000).
 - Engineering/architecture services valued at >\$100,000 (formerly exempt) .
 - Public works valued at >\$100,000 (formerly \$20,000).
 - Leases valued at \$100,000 or greater (formerly \$10,000).

Trips and traps in public procurement

- Good faith immunity provision – what does it mean?
- Bid shopping
- Make sure tender forms are consistent

Trips and traps in contract law

- Written vs. oral contracts
- Written development agreements
- Defence and indemnity provisions

Trips and traps in municipal orders

- Four main requirements for form of order:
 - Right of appeal, appeal period, right of interested parties to appeal the decision, manner of appealing.
 - If s. 5 is not complied with, may be issues with enforceability: *Janes v. Embree*

Trips and traps in municipal orders

- At appeal, produce affidavit evidence and/or written argument in advance
- Give the appeal board an easy way to resolve the matter

Trips and traps in enforcing municipal orders

- Enforcing tear down or clean up orders is risky – hoarders love to sue
- Police won't help much, but we suggest having them there anyway

Trips and traps in enforcing municipal orders

- Take inventory of ~~junk~~ treasured valuables, photograph condition before removal.
- Store for period of time before disposal

Trips and traps in enforcing municipal orders



- Resident trying to prevent enforcement?
- Two options: prosecution or injunction

Tips and traps in enforcing municipal orders

- Prosecution under *Provincial Offences Act*
- Town Clerk can prosecute with authorization of counsel
- Fines, jailtime, or court order, including order for removal

Tips and traps in enforcing municipal orders

- Injunction application in Supreme Court
- More expensive than prosecution
- Police/Sheriff will enforce court order
- Defiance of court order: possible jailtime



These materials are intended to provide brief informational summaries only of legal developments and topics of general interest.

These materials should not be relied upon as a substitute for consultation with a lawyer with respect to the reader's specific circumstances. Each legal or regulatory situation is different and requires review of the relevant facts and applicable law.

If you have specific questions related to these materials or their application to you, you are encouraged to consult a member of our Firm to discuss your needs for specific legal advice relating to the particular circumstances of your situation.

Due to the rapidly changing nature of the law, Stewart McKelvey is not responsible for informing you of future legal developments.