

From: Samuel E. Trosow <strosow@uwo.ca>
To: London Public Library Board Chairperson Svetlana MacDonald, Vice-Chairperson David Winninger, Board Members Gina Barber, Nancy Branscombe, Jerry Colwell, Jo Deslippe, Jan Lubell, Josh Morgan, and Joanne Tilly; CEO Anne Becker, and Board Secretary.
Re: Applicability of Open Meeting legislation to LPL

Dated: January 15, 2008

This letter is to follow up my letter of November 21, 2007 and my presentation at your December Board meeting. Councilor Winninger was quite correct in pointing out that the London Public Library Board is governed by the terms of the Ontario Public Library Act with respect to open meeting requirements.

To be more specific, Section 16.1 of the OPLA governs the conduct of your meetings. It includes the same provisions with respect to the requirement of open meetings as well of the exceptions, which allow closed sessions (there was an amendment to the Municipal Act that allows a new exception that was not mirrored in the OPLA). The procedures for invoking a closed meeting exception are also the same.

Accordingly, I stand by my comments that the Board has to take open meeting requirements seriously, especially in light of the RSJ decision, which I referenced, in my previous letter. In particular, confidential reports to the LPL should be received in duly noticed closed session under section 16.1(6). For your reference, I append the text of section 16.1 and ask that it be included in your record.

I applaud the action taken by the board at the December meeting with respect to the Delegation Policy and the creation of a sub-committee to address this and other related issues. I will look forward to making further detailed submissions on this topic to the subcommittee at the appropriate time. For now, I would request that this letter be appended to your minutes and that the minutes of the December meeting reflect that the Board is subject to the requirements of section 16.1 of the OPLA.

Thank you for your attention to this issue.

/s/

Samuel Trosow, Associate Professor
University of Western Ontario
strosow@uwo.ca

Section 16.1

(1) In this section,

“committee” means any advisory or other committee, subcommittee or similar entity of which at least 50 per cent of the members are also members of the board; (“comité”)

“meeting” means any regular, special, committee or other meeting of the board. (“réunion”) 2002, c. 17, Sched. C, s. 24 (5).

Open meetings

(2) Except as provided in this section, all meetings shall be open to the public. 2002, c. 17, Sched.C, s.24 (5).

Improper conduct

(3) The board chair may expel any person for improper conduct at a meeting. 2002, c. 17, Sched. C, s. 24 (5).

Closed meetings

(4) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the board;
- (b) personal matters about an identifiable individual;
- (c) a proposed or pending acquisition or disposition of land by the board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a board or committee of a board may hold a closed meeting under another Act. 2002, c. 17, Sched. C, s. 24 (5).

Other criteria

(5) A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act if the board or committee of the board is the head of an institution for the purposes of that Act. 2002, c. 17, Sched. C, s. 24 (5).

Resolution

(6) Before holding a meeting or part of a meeting that is to be closed to the public, a board or committee of the board shall state by resolution,

- (a) the fact of the holding of the closed meeting; and
- (b) the general nature of the matter to be considered at the closed meeting. 2002, c. 17, Sched. C, s. 24 (5).

Open meeting

(7) Subject to subsection (8), a meeting shall not be closed to the public during the taking of a vote. 2002, c. 17, Sched. C, s. 24 (5).

Exception

(8) A meeting may be closed to the public during a vote if,

(a) subsection (4) or (5) permits or requires the meeting to be closed to the public; and

(b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the board or committee of the board or persons retained by or under contract with the board. 2002, c. 17, Sched. C, s. 24 (5).